

Consideration of amendments to nonrule policy document providing guidance for personal property found on DNR properties; Administrative Cause No. 11-130A

As part of the broad initiative to implement changes to rules and to nonrule policy documents needed to accommodate removal of the Museums and Historic Sites from the DNR and to create the State Museums and Historic Sites Corporation, the nonrule policy document pertaining to personal property found on DNR properties was reviewed. This nonrule policy document was determined to include no direct reference to the former Museums and Historic Sites within DNR. But the document was also found to have outdated cross-references and language warranting simplification. Housekeeping amendments are recommended to Information Bulletin #23 as set forth in Exhibit "A".

Exhibit "A"

NATURAL RESOURCES COMMISSION

Information Bulletin #23 (~~First~~ Second Amendment)

SUBJECT: Personal Property Found on DNR Properties

Field properties of the Department of Natural Resources (the "DNR") often have personal property left at their locations, intentionally or unintentionally. This information bulletin is directed at personal property not owned by the State of Indiana ("personal property") which is either lost or abandoned on ~~real property owned, managed, or operated by DNR ("DNR property")~~ a "DNR property" as defined at 312 IAC 8-1.5-6. This policy applies whether the owner is known or unknown. The policy also applies if the property is seized pursuant to a criminal investigation or another law enforcement activity.

1. Procedures and Notice

Any personal property found on a DNR property shall be turned in to the person in charge of the property (property manager, curator, or person with similar responsibilities, collectively referenced as a "DNR representative"). A property owner or lien holder is entitled to written notice both before and after personal property is seized and an opportunity to be heard. Notice shall be sent by certified mail to the last known address of the owner. If the DNR property should reasonably know that the personal property has a lien, the lien holder shall also be notified by certified mail. Except as otherwise provided below, the notice shall include the following:

You are notified personal property described in this notice was found at our DNR property. If you do not claim the personal property within 90 days, the State may dispose of it. You are entitled to administrative review of this determination under IC 4-21.5 and 312 IAC 3-1. To exercise your rights of review, you must within 18 days of mailing of this notice send a letter to: ~~Director~~ Division of Hearings, Natural Resources Commission, 402 W. Washington Street, Room W272, 100 North Senate Avenue, Room N501, Indianapolis, IN 46204.

2. Types of personal property

In the case of non-living personal property, whether or not it is operable, a DNR property shall make a diligent effort to notify the property owner the item has been found. A DNR property may assess impoundment fees and administrative fees (such as mailing costs) against the property owner which must be paid prior to release of the item(s). Except as otherwise provided in this bulletin, if the property owner is unknown or if the property owner has not claimed the personal property within ninety (90) days of notification by DNR, the DNR property may either use the item for State business, send the item to the surplus property sale, or discard the property. This procedure ~~shall apply~~ applies unless specific kinds of personal property are subject to other laws as outlined below. If there is a conflict, the stricter procedure shall apply and statutes shall supersede a rule. Unless otherwise specified below, the personal property which is found shall not be used or taken by State employees or their family members.

a. Vehicles: "Vehicle" has the meaning set forth in IC 9-13-2-196(d) and includes an automobile, a motorcycle, a truck, a trailer, a semitrailer, a tractor, a bus, a school bus, a recreational vehicle, or a motorized bicycle. IC 9-22 ~~requires that certain procedures be followed for~~ governs the disposition of abandoned, salvaged, or scrap vehicles. When a ~~DNR property finds a vehicle or vehicle part is found on a DNR property~~, the property manager shall notify the district conservation law enforcement office. ~~The~~ A conservation officer shall take control of the vehicle or vehicle part and follow applicable statutory procedures.

b. Watercraft: ~~"Watercraft"~~ "Boat" has the meaning set forth in 312 IAC 1-1-4.5 and includes any instrumentality or device in or by means of which a person may be transported upon the public water of Indiana. The term includes a motorboat, personal watercraft, a boat part, sailboat, rowboat, skiff, dinghy, canoe, or similar item of personal property of any length or size and whether or not used to carry passengers for hire. When a ~~watercraft boat~~ boat is found on a DNR property, the DNR representative shall notify the district conservation law enforcement office. ~~The~~ A conservation officer shall take control of the ~~watercraft boat~~ boat and follow the applicable statutory procedures.

c. Firearms: "Firearm" includes any weapon that is capable of or designed to or that may readily be converted to expel a projectile by means of an explosion and includes a part of a firearm. When ~~DNR property personnel find a firearm is found on a DNR property, whether or not the firearm is operable~~, the property manager shall notify the district conservation law enforcement office. ~~The~~ A conservation officer shall take control of the firearm and follow the applicable statutory procedures.

d. Contraband and Criminal Investigation: Any items which are prohibited by law are considered contraband. When ~~DNR property personnel find contraband items is found on a DNR property~~, a DNR representative shall immediately notify the district conservation law enforcement office. The conservation officer shall take control of the contraband and ~~apply~~ follow the applicable statutory procedures. ~~The local~~ A conservation officer, or, if a conservation officer is unavailable, another law enforcement officer, shall direct and take control of any personal property associated with a criminal investigation or other law enforcement activity.

e. Food and Perishable Items: Unclaimed personal property which is perishable ~~by nature~~, such as food, shall be donated to a local charity or thrown away. No notice is required. ~~Prior to disposition, a record shall be kept of the items found and the date, location, and disposition.~~

f. Other Personal Property: Any ~~other~~ non-living personal property found on a DNR property, which is not otherwise addressed in this information bulletin, shall follow the general procedures of documentation, notification, storage, and disposition set forth in this bulletin. All cash or cash equivalent items shall be kept in a locked safe. If a DNR property does not have a safe, ~~then~~ it shall be kept in another locked, secure area. If unclaimed, the money shall be deposited as miscellaneous revenue.

g. Pets: ~~Under Indiana law, Pets are considered personal property. Unfortunately, some visitors to DNR properties either lose or leave their pets at their site or on the DNR property. When an~~

~~animal is found, a record shall be kept of the date and location found and a description of the animal. The DNR property shall immediately notify the pet owner the animal has been found. If the owner of the pet is known, the DNR property shall notify the owner as soon as practicable. If the DNR property has adequate facilities to do so, the animal pet may be kept in a sheltered, enclosed area for up to seven (7) days. The DNR property is responsible for shall provide humane care while the animal a pet is under its supervision. If the DNR property does not have facilities available for keeping the animal to keep a pet, or upon the expiration of the seven (7) days, the animal may be either: (1) held and cared for by an employee until the animal is claimed; or (2) transferred to a local humane society, wildlife rehabilitator, animal shelter, willing veterinarian, or another appropriate animal care facility. This procedure also applies to animals pets that appear to belong to someone (such as having a collar or leash), but which do not have an identification tag.~~

3. Reimbursement of Fees

A DNR property may assess impoundment fees and administrative fees (such as mailing costs) against the personal property owner, and these fees must be paid ~~prior to~~ before release of the animal property to the owner.

3. 4. Recordkeeping

Any personal property taken pursuant to this information bulletin shall be documented on an Incident Report form, SF 42836 (R/11-90). These records shall be maintained at the DNR property for at least one (1) year.

4. 5. Employee Training

All DNR properties shall inform their employees (full time, CR & R, and intermittent) of the terms of this information bulletin.

5. 6. History

This information bulletin was approved by the Natural Resources Commission on December 22, 1998, and became effective January 1, 1999. On January 16, 2007, the Commission reviewed and affirmed this bulletin. On March 20, 2012, the Commission made technical corrections and updated the bulletin.